

**PETITION OF APPEAL FROM DECISION OF
MIAMI-DADE COUNTY COMMUNITY ZONING APPEALS BOARD
TO THE BOARD OF COUNTY COMMISSIONERS**

CHECKED BY 83 AMOUNT OF FEE \$ _____

RECEIPT # _____

DATE HEARD: 05/20/04

BY CZAB # 5

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03353
JUN 04 2004

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY 83

DATE RECEIVED STAMP

This Appeal Form must be completed in accordance with the "Instruction for Filing an Appeal" and in accordance with Chapter 33 of the Code of Miami-Dade County, Florida, and return must be made to the Department on or before the Deadline Date prescribed for the Appeal.

RE: Hearing No. Z03-353 (04-4-CZ5-1)

Filed in the name of (Applicant) Country Club Shopping Center, Inc. & T-Mobile

Name of Appellant, if other than applicant: George M. Burgess, County Manager, Miami Dade County

Address/Location of APPELLANT'S: 111 NW 1st St., 29th floor, Miami, Fla. 33128

Application, or part of Application being Appealed (Explanation) Entire application

Appellant (name): George M. Burgess, County Manager, Miami Dade County

In accordance with Section 33-314(B)(8) of the Code of Miami-Dade County, the County Manager respectfully appeals the May 20, 2004 decision of Community Zoning Appeals Board - 5 ("CZAB-5") denying application No. Z03-353 by Country Club Shopping Center, Inc. & T-Mobile for a special exception to permit a wireless supported service facility including antenna support structure. The Manager appeals this decision based upon his opinion that the action of Community Zoning Appeals Board -5 has an overall impact to the County.

This appeal is based on the following grounds:

1. In response to the opinion of the Third District Court of Appeal in Miami-Dade County v. Omnipoint, case no. 3D01-2347, the Board of County Commissioners adopted Ordinance #03-163, amending the Zoning Code to include Section 33-311(A)(18) (Wireless Supported Facilities, Including Antenna Support Structures). This Section established new and specific

criteria by which the Community Zoning Appeals Boards (CZABs) would, after public hearing, hear and grant or deny applications for the erection of antenna support structures for wireless (cellular) telephone service. The subject application was the second to be filed and considered under the criteria established by Section 33-311(A)(18). In its denial of this application, CZAB-5 did not follow the established criteria of the new ordinance.

2. Section 33-311(A)(18) states that a proposed Wireless Supported Service Facility, including Antenna Support Structures, shall be approved upon demonstration that the proposed structure is in compliance with the standards of the Section. The applicant, Country Club Shopping Center, Inc. & T-Mobile, demonstrated compliance with such standards, and there was no competent substantial evidence to support a finding by CZAB-5 that such standards were not met. CZAB-5 nevertheless denied the application despite the ordinance's mandate to approve it.
3. As the second decision under the new Ordinance this could become the basis for other similar decisions by this and other CZABs County wide. Additionally the decision of CZAB-5, if not reviewed by the Board of County Commissioners, could potentially subject the County to protracted litigation, including possible claims for substantial damages.

Date: 4 day of June, year: 2004

Signed [Signature]

George M. Burgess
Print Name

111 NW 1st Street, 29th Floor, Miami, FL 33128
Mailing Address

(305) 375-2117
Phone

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Fax

REPRESENTATIVE'S AFFIDAVIT

If you are filing as representative of an
association or other entity, so indicate:

Representing

Signature

Print Name

Address

City

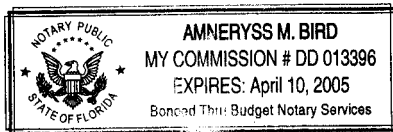
State

Zip

Telephone Number

Subscribed and Sworn to before me on the 4 day of June, year 2004

[Signature]
Notary Public



(stamp/seal)

Commission expires: 04-10-05

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BY [Signature]